

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

EMMA FERNANDEZ VARGAS, et al.,

Plaintiffs,

Civil No. 04-2236 (JAF)

v.

Pfizer Pharmaceuticals, Inc.,
et al.,

Defendants.

OPINION AND ORDER

Plaintiffs, Emma Fernández Vargas and her son Christian Jaime Pagán Fernández, originally filed a complaint against Defendants Pfizer Pharmaceuticals, Inc. (Pfizer); an unnamed insurance company; unnamed Pfizer employees; Luis Adorno Cabán; and Anabel Sánchez Valle, as the representative of her minor children, Emmibel Pagán Sánchez, and Reysha Pagán Sánchez, in local Puerto Rico court. Docket Document No. 6-2. In that complaint, which Pfizer later removed to this court, Docket Document No. 1, Plaintiffs sought monetary damages for the wrongful death of their common-law husband and father, Jaime Pagán Avilés, while working at Pfizer, and a claim under the Employment Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 et seq. (1999 & Supp. 2006), for the recovery of related benefits that they claim were improperly denied. Docket Document No. 6-2. Defendants Sánchez Valle and her minor children ("the Sánchez Valle family"), who were also fathered

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1 by Pagán Avilés, filed their own complaint in local Puerto Rico
2 court for wrongful death against Pfizer, Docket Document No. 92-2,
3 and then later filed identical wrongful death cross-claims against
4 Pfizer in the instant litigation. Docket Document No. 35. This
5 court dismissed Plaintiffs' complaint and the Sánchez Valle
6 family's wrongful death cross-claims in a series of orders. Docket
7 Document Nos. 42, 76, 81, 83. The Sánchez Valle family moved for
8 reconsideration of the dismissal of their wrongful death cross-
9 claims, Docket Document No. 49, and we denied that motion. Docket
10 Document No. 82.

11 The Sánchez Valle family now moves for reconsideration of what
12 it calls our dismissal of its ERISA cross-claim against Pfizer.
13 Docket Document No. 84. Pfizer opposes the reconsideration motion,
14 arguing that the Sánchez Valle family never pleaded any ERISA
15 cross-claim against it such that there are no ERISA cross-claim
16 issues for this court to reconsider. Document No. 85.

17 Pfizer also moves this court for a permanent injunction under
18 the All Writs Act, 28 U.S.C. § 1651 (1994 Supp. 2004), barring the
19 Sánchez Valle family from relitigating issues in local Puerto Rico
20 court pursuant to their pending lawsuit that have previously been
21 determined in this forum. Docket Document Nos. 86, 87. The Sánchez
22 Valle family opposes. Docket Document No. 94. Pfizer replies,
23 Docket Document No. 97, and the Sánchez Valle family sur-replies.
24 Docket Document No. 98.

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I.

Factual and Procedural History

Pagán Avilés and Adorno Cabán were co-workers at Pfizer. On August 6, 2003, Adorno Cabán fatally shot Pagán Avilés while the two were working in the company's industrial factory in Barceloneta, Puerto Rico. Fernández Vargas also worked at Pfizer at the time, and it appears from the case record that she continues to work there at present.

Plaintiffs filed this lawsuit in local Puerto Rico court seeking monetary damages from Defendants for Pagán Avilés' death on August 2, 2004. Docket Document No. 6-2. The action alleged wrongful death claims, and a claim that Fernández Vargas was wrongfully denied long-term disability benefits, a fact that caused her a great deal of emotional anguish when she had to return to work, see old coworkers and the scene where her common-law husband was killed, and relive the times she and Pagán Avilés shared together at Pfizer. Docket Document No. 6-2. Plaintiffs have explained that they chose to include Pagán Avilés' minor children with another woman as defendants because they have the right to share in any award, but could not be included as co-plaintiffs because Plaintiffs did not secure the proper authorization. Id. The Sánchez Valle family filed their own action against Pfizer, among other defendants, in a local Puerto Rico court on October 26, 2004, alleging wrongful death claims. Docket Document No. 92-2.

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1 Pfizer removed Plaintiffs' action to this court on November 9,
2 2004, claiming that Plaintiffs' claim of wrongful denial of
3 long-term disability benefits claim was actually a claim under
4 ERISA, and not local law. Document No. 1.

5 Pfizer then moved to dismiss the action against it on December
6 8, 2004, arguing firstly that although Plaintiffs' wrongful denial
7 of long-term disability benefits claim was actually preempted by
8 ERISA, Plaintiffs had not properly pleaded it as an ERISA claim.
9 Docket Document No. 5. Pfizer secondly argued that it was immune
10 from the wrongful death claims due to the fact that it was insured
11 under Puerto Rico's Workmen's Compensation Act ("workers'
12 compensation act"), 11 L.P.R.A. § 1 et seq. (2003), which grants
13 employers tort immunity in exchange for their participation in the
14 workers' compensation insurance program. Id.

15 Plaintiffs conceded that their wrongful denial of benefits
16 claim was preempted by ERISA, and requested leave from this court
17 to amend their complaint accordingly. Docket Document No. 13. As
18 for their contested wrongful death claims, Plaintiffs cited to a
19 State Insurance Fund (SIF) opinion finding that they were not
20 entitled to recover under the Puerto Rico workers' compensation act
21 due to the fact that Adorno Cabán's aggression against Pagán Avilés
22 had "no bearing whatsoever with the functions performed by the
23 employee, nor with the functions performed by the assailant." Id.
24 His death not being work-related, the SIF held that Plaintiffs

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1 could not recover for it under the Puerto Rico workers' compensation act. Docket Document No. 25-2. Plaintiffs argued that the SIF's determination that Pagán Avilés' death was not compensable under Puerto Rico's workers' compensation act meant that Pfizer did not enjoy immunity from related tort actions. Docket Document No. 13. On February 6, 2005, we granted Plaintiffs' request for leave to file an amended complaint to reflect their ERISA action, but deferred judgment on the question of whether Pfizer enjoyed employer immunity under the Puerto Rico workers' compensation act until Plaintiffs filed an English translation of the SIF decision that figured so prominently in their opposition argument. Docket Document No. 19. Plaintiffs filed the English translation of the SIF decision on February 22, 2005, Docket Document No. 25-2, and submitted their amended complaint later that same day. Docket Document No. 26.

16 Pfizer moved to dismiss Plaintiffs' newly pleaded ERISA claim on March 10, 2005, arguing that Plaintiffs did not allege to have administratively appealed the denial of Fernández Vargas' long-term disability benefits as is required for a valid ERISA denial-of-benefits claim in federal court. Docket Document No. 28. Pfizer speculated that Plaintiffs failed to allege having exhausted any administrative appeal of the denial of Fernández Vargas' benefits because there was nothing to appeal. Id. According to Pfizer, and contrary to Plaintiffs' assertions, it had no record

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1 that Fernández Vargas had ever even applied for the long-term
2 disability benefits that Plaintiffs' complaint now averred had been
3 wrongfully withheld. Id. Pfizer's March 10, 2005, motion to
4 dismiss also renewed its earlier arguments in favor of dismissing
5 the wrongful death claims against it on the basis of employer
6 immunity under the Puerto Rico workers' compensation act. Id.
7 Plaintiffs opposed Pfizer's second motion to dismiss on March 21,
8 2005. Docket Document No. 30. Pfizer replied on April 11, 2005.
9 Docket Document No. 33.

10 The Sánchez Valle family filed an answer to Plaintiffs'
11 complaint on April 25, 2005, in which it pleaded wrongful death
12 cross-claims against Pfizer. Docket Document No. 35. Pfizer
13 moved to dismiss the wrongful death claims asserted by the Sánchez
14 Valle family on May 10, 2005, for the same reasons stated in its
15 pending motions to dismiss Plaintiffs' wrongful death claims, i.e.,
16 employer immunity under the Puerto Rico workers' compensation act.
17 Docket Document No. 37.

18 On June 8, 2005, we denied Pfizer's motion to dismiss
19 Plaintiffs' ERISA claims, holding that Plaintiffs had satisfied
20 pleading requirements. Docket Document No. 42. In the same order,
21 we granted Pfizer's motion to dismiss Plaintiffs', and the Sánchez
22 Valle family's, wrongful death claims. Id. We then decided not to
23 exercise supplemental jurisdiction over the remaining wrongful
24 death claim against Adorno-Cabán, given that it bore little

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1 relationship to the only other surviving claim in the case,
2 Plaintiffs' ERISA action against Pfizer. Id.

3 Pfizer answered Plaintiffs' amended complaint on June 21,
4 2005. Docket Document No. 48.

5 The Sánchez Valle family moved for reconsideration of the
6 dismissal of their wrongful death cross-claims on June 22, 2005,
7 Docket Document No. 49.

8 Pfizer filed a summary judgment motion seeking to dismiss
9 Plaintiffs' remaining ERISA claim on July 13, 2005, appending,
10 inter alia: (1) an affidavit from one of its insurance
11 representatives testifying that Pfizer's long-term disability plan
12 never received any application for benefits from Fernández Vargas;
13 (2) an affidavit from one of Pfizer's occupational nurses
14 testifying that Fernández Vargas was sent a letter via Federal
15 Express informing her of the steps she would need to take to
16 qualify for long-term disability benefits after her eligibility for
17 short-term disability benefits expired after three renewals; (3)
18 Pfizer records indicating the repeated extension of short-term
19 benefits; and (4) a communication from Federal Express confirming
20 that a letter was delivered to Fernández Vargas from Pfizer.
21 Docket Document No. 58, Exhs. 2, 3, 3a, 3b, 3c, 3d, 3e, 3g, 4c.

22 Plaintiffs never responded to Pfizer's summary judgment motion, and
23 Pfizer moved on August 22, 2005, that it be deemed unopposed.
24 Docket Document No. 70. Later that same day, Pfizer moved to have

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1 Plaintiffs' action against it dismissed for lack of prosecution.
2 Docket Document No. 71. We dismissed the case in its entirety on
3 August 31, 2005. Docket Document Nos. 76, 81, 83. We also denied
4 the Sánchez Valle family's motion for reconsideration of their
5 wrongful death cross-claims against Pfizer on August 31, 2005.
6 Docket Document No. 82.

7 On September 14, 2005, the Sánchez Valle family moved for
8 reconsideration of what it calls our dismissal of its ERISA cross-
9 claims against Pfizer. Docket Document No. 84. Pfizer opposed the
10 reconsideration motion on September 27, 2005, arguing in part that
11 the Sánchez Valle family never pleaded any ERISA cross-claims
12 against it. Document No. 85. There having never been any ERISA
13 cross-claims by the Sánchez Valle family to dismiss, Pfizer argues
14 that there is no ERISA cross-claim dismissal for this court to
15 reconsider. Id.

16 On March 31, 2006, Pfizer petitioned this court for a
17 permanent injunction under the All Writs Act, 28 U.S.C. § 1651,
18 barring the Sánchez Valle family from re-litigating issues in local
19 Puerto Rico court pursuant to their pending lawsuit that have
20 previously been determined in this forum. Docket Document Nos. 86,
21 87. The Sánchez Valle family opposed on May 2, 2006. Docket
22 Document No. 94. Pfizer replied on May 22, 2006, Docket Document
23 No. 97, and the Sánchez Valle family and her minor children sur-
24 replied on June 1, 2006. Docket Document No. 98.

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II.

Analysis

A. The Sánchez Valle Family's Motion for Reconsideration

Motions for reconsideration "are entertained by courts if they seek to correct manifest errors of law or fact, present newly-discovered evidence, or when there is an intervening change in the law." Lima-Rivera v. UHS of P.R., Inc., 2005 WL 2095786 at *1 (D.P.R. August. 30, 2005) (citing Jorge Rivera Surillo & Co. v. Falconer Glass Indus., Inc., 37 F.3d 25, 29 (1st Cir. 1994)). The Sánchez Valle family has made no showing, nor do we find, that any such circumstance is presented here.

The Sánchez Valle family argues: (1) that they properly pleaded an ERISA cross-claim in this case by incorporating by reference the ERISA claims in Plaintiffs' complaint in their answer; (2) that Plaintiff Christian Jaime Pagán Fernandez' interest in this case was not properly represented by his mother, resulting in the incorrect dismissal of his ERISA claim; and (3) that pre-discovery summary judgment on its alleged ERISA cross-claim was improper. Docket Document No. 84. We do not reach the Sánchez Valle family's second and third arguments because they are premised on the supposition that they had an ERISA cross-claim against Pfizer in the first instance; we find that they never pleaded an ERISA cross-claim. There is therefore no ERISA cross-claim dismissal for us to review today.

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1 Plaintiffs' complaint includes the following language:

2 " The minor children Emmibel and Reysha Pagán
3 Sánchez, children of the decedent are included
4 as defendants represented by their mother Mrs.
5 Anabel Sánchez Valle due to lack of
6 authorization to include them as plaintiffs and
7 because it is necessary to include them in the
8 lawsuit, with the exception that any award that
9 they may receive in this case will benefit them
10 in their condition as coheirs of the decedent."

11 Docket Document No. 26, ¶ 5.

12 The Sánchez Valle family submits that they pleaded an ERISA
13 action against Pfizer by making a reference to the above paragraph
14 in their answer to Plaintiffs' amended complaint. Docket Document
15 No. 35, 84. The reference in question reads as follows:

16 " In regard to paragraph 5 of the
17 Complaint, it does not require a responsive
18 pleading but in so far a response is required
19 [sic], co-Defendants admit that the minor
20 children Emmibel and Reysha Pagan Sanchez are
21 children of the decedent represented by their
22 mother Anabel Sanchez Valle and that any award
23 received in the above captioned lawsuit should
24 benefit the minor children in their condition
25 as coheirs of the decedent."

26 Docket Document No. 35, 84.

27 We first observe that the Sánchez Valle family's other cross-
28 claim the wrongful death cross-claim against Pfizer is, by
29 contrast to the ERISA cross-claim that they allege to have pleaded
30 by extremely vague reference, handled very thoroughly in its
31 answer, replete with extensive allegations of Pfizer's negligence
32 and how it contributed to Pagán Avilés' death and suffering.

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1 Docket Document No. 35. We are slightly confused as to why the
 2 Sánchez Valle family would meticulously plead its wrongful death
 3 cross-claims with paragraphs and paragraphs of elaboration, yet
 4 plead its ERISA cross-claim not just more sparsely, but positively
 5 murkily.

6 Looking past the Sánchez Valle family's inconsistent
 7 approaches to pleading its wrongful death cross-claim and its
 8 alleged ERISA cross-claim, as we think we must,¹ we think that the
 9 real problem with the Sánchez Valle family's suggestion that they
 10 properly pleaded an ERISA cross-claim against Pfizer is that its
 11 answer does not adequately provide the company with fair notice
 12 that the Sánchez Valle family had leveled an ERISA cross-claim
 13 against it. Swierkiewicz v. Sorema N.A., 534 U.S. 506, 507
 14 (2002) (noting that Rule 8(a) requires that the complaint "give the
 15 defendant fair notice of what the plaintiff's claim is"). Indeed,
 16 all the Sánchez Valle family's answer achieves is a plain statement
 17 of the Sánchez Valle family's belief that Emmibel Pagán Sanchez and
 18 Reysha Pagán Sanchez would be entitled to share in any award
 19 achieved by Plaintiffs in their action against Pfizer. Docket
 20 Document No. 35. It does not, however, communicate an intention to

1

There is nothing to suggest that a schizophrenic approach to pleading, even within the same filing, presents a procedural infirmity so long as each cross-claim independently meets the pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 8.

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2 incorporate any or all of Plaintiffs' claims into the Sánchez Valle
3 family's cross-claim.² Id.4 **B. Pfizer's Motion for a Permanent Injunction**5 Pfizer argues that the wrongful death claims found in the
6 Sánchez Valle family's October 26, 2004, complaint filed in local
7 Puerto Rico court, Docket Document No. 92-2, are identical to the
8 wrongful death cross-claims the Sánchez Valle family leveled in its
April 25, 2005, filing before this court. Docket Document No. 35.9 We dismissed the Sánchez Valle family's wrongful death cross-
10 claims, of course, on June 8, 2005, holding that Pfizer enjoyed
11 tort immunity relating to Pagán Avilés' death on the job due to the
12 fact that it was an insured employer under the Puerto Rico workers'
13 compensation act. Docket Document No. 42. Pfizer argues that our
14 June 8, 2005, dismissal of the Sánchez Valle family's wrongful
15 death cross-claims against it also settle the issue of Pfizer's
16 tort immunity in the Sánchez Valle family's local Puerto Rico court
17 proceeding pertaining to the same common nucleus of facts, and
18 entitle it to an order enjoining such re-litigation. Docket
19 Document No. 87.

² Our holding that the Sánchez Valle family has never pleaded an ERISA cross-claim against Pfizer means that the Sánchez Valle family may still file such an action, provided they meet the statute of limitations or other requirements.

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1 Pfizer is correct that the Sánchez Valle family's April 25, 2005,
2 wrongful death cross-claims against Pfizer look like carbon copies
3 of the Sánchez Valle family's October 26, 2004, complaint filed in
4 local Puerto Rico court. Compare Docket Document No. 35 (alleging,
5 *inter alia*, that Pfizer had the duty to provide to its employees a
6 secure working place free of firearms, yet negligently failed to
7 keep firearms off of its premises and to adequately supervise
8 Adorno Cabán), with Docket Document No. 92-2 (same).

9 Pfizer argues that the All-Writs Act, 28 U.S.C. § 1651 ("[A]ll
10 courts established by Act of Congress may issue all writs necessary
11 or appropriate in aid of their respective jurisdictions and
12 agreeable to the usages and principles of law."), and the Anti-
13 Injunction Act, 28 U.S.C. § 2283 (1994 & Supp. 2006), when read
14 together, empower this court to enter an injunction to effectuate
15 its judgment regarding the company's tort immunity relating to
16 Pagán Avilés' death. The Anti-Injunction Act prohibits this court
17 from "grant[ing] an injunction to stay proceedings in a State Court
18 except . . . where necessary . . . to protect or effectuate its
19 judgments." 28 U.S.C. § 2283. Pfizer zeroes in on the Anti-
20 Injunction Act's exception for circumstances when a court needs "to
21 protect or effectuate its judgments" ("the relitigation
22 exception"), and claims that it permits the injunction it seeks in
23 this case ("the injunction"). Docket Document No. 87. The Anti-
24 Injunction Act's relitigation exception is a preemptive strike that

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1 eradicates the need to assert prior adjudication defenses in state
2 court when faced with claims that have already been determined in a
3 federal court. Smith v. Woosley, 399 F.3d 428 (2nd Cir. 2005).

4 We begin by noting the Supreme Court's admonition that the
5 relitigation exception and all other exceptions to the Anti-
6 Injunction Act "are narrow and are not to be enlarged by loose
7 statutory construction." Chick Kam Choo v. Exxon Corp., 486 U.S.
8 140, 146 (1988) (internal quotations omitted). "[A]n essential
9 prerequisite for applying the relitigation exception is that the
10 claims or issues which the federal injunction [would] insulate[]
11 from litigation in state proceedings actually have been decided by
12 the federal court." Id. at 148. What exactly does this
13 requirement mean? We look to two relevant Supreme Court cases for
14 guidance.

15 In Chick Kam Choo a Singaporean repairman was accidentally
16 killed while doing repair work on an Exxon Corporation ("Exxon")
17 oil tanker, and the repairman's widow filed a lawsuit against Exxon
18 in the United States District Court for the Southern District of
19 Texas. 486 U.S. 140, 146 (1988). Applying federal law, and after
20 Exxon agreed to submit to the jurisdiction of Singapore courts, the
21 district court granted the corporation's forum non conveniens
22 motion and dismissed the action. Id. at 143. The repairman's
23 widow filed a second lawsuit, not in a Singapore court, but in
24 Texas state court. Id. at 144. The district court, which thought

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1 its forum non conveniens dismissal under federal law had
2 effectively sent the lawsuit to Singapore, enjoined the repairman's
3 widow from "prosecuting or commencing any causes of action or
4 claims against [Exxon] in the courts of the State of Texas or any
5 other state . . . arising out of or related to the alleged wrongful
6 death of [her husband]." Id.

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1 The Supreme Court invalidated the injunction, stressing that
2 the district court's original determination under federal law was
3 that Texas federal courts were inappropriate fora for the widow's
4 claims under federal law. Id. at 149. The district court had
5 never decided whether the Texas state courts were appropriate fora
6 under state law, by contrast, and the Supreme Court therefore
7 concluded that the injunction foreclosing consideration of that
8 issue was therefore not tailored to protect anything already
9 decided, i.e., outside the Anti-Injunction Act's relitigation
10 exception.

11 In Atlantic Coast Line Railroad Co. v. Brotherhood of
12 Locomotive Engineers a United States District Court denied a
13 railroad's application for an injunction against union picketing
14 based on the Norris LaGuardia Act, 29 U.S.C. § 101 et seq., which
15 imposes limitations on when a federal court may issue injunctions
16 in labor disputes. 398 U.S. 281, 289-90 (1970). The railroad
17 filed a second, similar lawsuit in Florida state court, where it
18 again requested and was granted an injunction under state law
19 barring union picketers. Id. at 283-84. Believing that the state
20 order's implementation would contradict its earlier denial of a
21 picketing injunction, the district court enjoined the railroad from
22 invoking the state order to stop union picketers. Id. at 284.

23 The Supreme Court vacated the district court's injunction,
24 explaining that even though the district court had refused to issue

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1 an injunction using federal standards, its decision had not
2 considered state standards or whether federal standards precluded
3 state regulation of picketing. Id. at 290. This last point was
4 critical to the Court's decision. Had the district court
5 determined that federal law precluded state regulation of
6 picketing, the Court explained, the Anti-Injunction Act's
7 relitigation exception would have certainly applied. Id. at 290.
8 Exxon's and the railroad's unsuccessful invocations of the Anti-
9 Injunction Act relitigation exception in Chick Kam Poo and Atlantic
10 Coast Line Railroad Co., respectively, show that a district court
11 must have clearly decided the issue to be enjoined in order for the
12 Anti-Injunction Act's relitigation exception to apply. We think
13 that that standard has been met in the present case. Pfizer asks
14 us to enjoin the Sánchez Valle family from relitigating whether the
15 corporation enjoys tort immunity from their wrongful death claims
16 stemming from Pagán Avilés' death under Puerto Rico law. This is
17 the precise question that we answered in the negative in the
18 context of the Sánchez Valle family's wrongful death cross-claims
19 against Pfizer before this court. In short, the issue is one that
20 we have already decided. See Atlantic Coast Line Railroad Co., 398
21 U.S. at 290. The Anti-Injunction Act's relitigation exception
22 therefore permits an injunction in this case.

23 "The fact that an injunction may issue under the Anti-
24 Injunction Act does not mean that it must issue. The injunction

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1 must be an otherwise proper exercise of the [court's] equitable
2 power." Daewoo Elecs. v. Western Auto Supply Co., 975 F.2d 474,
3 478 (8th Cir. 1992). A grant of permanent injunctive relief may
4 issue upon a finding of the four following elements: (1) actual
5 success on the merits; (2) threat of irreparable harm to the movant
6 if the injunction is not granted; (3) the state of the balance
7 between this harm and the injury that granting the injunction would
8 inflict upon the non-movant; and (4) the public interest that would
9 be affected by an injunction. Aponte v. Calderón, 284 F.3d 184, 191
10 (1st Cir. 2002).

11 The Sánchez Valle family contests whether Pfizer achieved
12 actual success on the merits of this case because its
13 reconsideration motion regarding its purported ERISA cross-claim
14 has been pending before this court. Docket Document No. 94. We
15 resolved this disputed point earlier in this opinion, *supra*,
16 section II.A., when we denied the Sánchez Valle family's motion for
17 reconsideration on this issue.

18 The Sánchez Valle family also challenges whether Pfizer has
19 satisfied the second element of a permanent injunction petition,
20 i.e., establishing the threat of irreparable harm. Docket Document
21 No. 94. Pfizer's motion for the injunction submits that the
22 irreparable harm it would suffer is the wasteful expense of
23 relitigating the tort immunity issue. Docket Document No. 87
24 ("Pfizer . . . would suffer irreparable harm if it is forced to

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1 endure wasteful relitigation . . ."). We agree with Pfizer. Our
 2 finding that the litigation in Puerto Rico court concerns an issue
 3 we have already decided is sufficient to demonstrate the harm of
 4 continuing the state litigation. See Ballenger v. Mobil Oil Corp.,
 5 138 Fed. Appx. 615, 622 (5th Cir. 2005) ("[N]o independent
 6 demonstration of irreparable harm . . . is necessary to win an
 7 injunction under the relitigation exception to the Anti-Injunction
 8 Act."); In re Dublin Securities, Inc., 133 F.3d 377, 380 (6th Cir.
 9 1997) ("[T]he potential irreparable harm to the defendants from the
 10 failure to issue an injunction is obvious. The purported state
 11 court defendants, agents of the . . . defendants in federal court,
 12 are forced to defend in yet another forum the identical claims that
 13 were asserted against their principals successfully."); In re SDDS,
 14 Inc., 97 F.3d 1030, 1041 (8th Cir. 1996) ("Requiring [defendant] to
 15 relitigate in the state court issues previously decided by this
 16 Court constitutes an irreparable harm.").

17 As to the third and fourth prongs of the permanent injunction
 18 inquiry, we feel that they clearly weigh in favor of Pfizer, and
 19 therefore grant the injunction it seeks.

20 **III.**

21 **Conclusion**

22 In accordance with the foregoing, we **DENY** the Sánchez Valle
 23 family's motion for reconsideration, and we **GRANT** Pfizer's request
 24 for a permanent injunction barring the Sánchez Valle family from

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3 relitigating the issue of Pfizer's tort immunity from their
4 wrongful death claims in local Puerto Rico court.

5 **IT IS SO ORDERED.**

6 San Juan, Puerto Rico, this 8th day of November, 2006.

7 S/José Antonio Fusté
JOSE ANTONIO FUSTE
Chief U.S. District Judge